

SENATE BILL 1094

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By: **Senators Mooney and Brinkley**

Introduced and read first time: March 4, 2010

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Public Service Commission – Restriction on the Construction of Overhead**
3 **Transmission Lines**

4 FOR the purpose of prohibiting the Public Service Commission from authorizing, and
5 an electric company from undertaking or exercising a right of condemnation in
6 relation to, the construction of an overhead transmission line designed to carry
7 a certain amount of voltage if the electric company's ownership meets certain
8 criteria; providing for the application of a certain provision; providing that this
9 Act applies retroactively to certain applications filed or pending on or after a
10 certain date; and generally relating to the construction of overhead
11 transmission lines.

12 BY repealing and reenacting, without amendments,
13 Article – Public Utility Companies
14 Section 1–101(a) and (h) and 7–207(a) and (b)
15 Annotated Code of Maryland
16 (2008 Replacement Volume and 2009 Supplement)

17 BY adding to
18 Article – Public Utility Companies
19 Section 7–207(h)
20 Annotated Code of Maryland
21 (2008 Replacement Volume and 2009 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Public Utility Companies
24 Section 7–207(h)
25 Annotated Code of Maryland
26 (2008 Replacement Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Public Utility Companies**

4 1–101.

5 (a) In this article the following words have the meanings indicated.

6 (h) (1) “Electric company” means a person who physically transmits or
7 distributes electricity in the State to a retail electric customer.

8 (2) “Electric company” does not include:

9 (i) the following persons who supply electricity and electricity
10 supply services solely to occupants of a building for use by the occupants:

11 1. an owner/operator who holds ownership in and
12 manages the internal distribution system serving the building; or

13 2. a lessee/operator who holds a leasehold interest in
14 and manages the internal distribution system serving the building;

15 (ii) any person who generates on–site generated electricity; or

16 (iii) a person who transmits or distributes electricity within a
17 site owned by the person or the person’s affiliate that is incidental to a primarily
18 landlord–tenant relationship.

19 7–207.

20 (a) (1) In this section and § 7–208 of this subtitle, “construction” means:

21 (i) any physical change at a site, including fabrication, erection,
22 installation, or demolition; or

23 (ii) the entry into a binding agreement or contractual obligation
24 to purchase equipment exclusively for use in construction in the State or to undertake
25 a program of actual construction in the State which cannot be canceled or modified
26 without substantial loss to the owner or operator of the proposed generating station.

27 (2) “Construction” does not include a change that is needed for the
28 temporary use of a site or route for nonutility purposes or for use in securing geological
29 data, including any boring that is necessary to ascertain foundation conditions.

30 (b) (1) (i) Unless a certificate of public convenience and necessity for
31 the construction is first obtained from the Commission, a person may not begin
32 construction in the State of a generating station.

1 (ii) If a person obtains Commission approval for construction
2 under § 7-207.1 of this subtitle, the Commission shall exempt a person from the
3 requirement to obtain a certificate of public convenience and necessity under this
4 section.

5 (2) Unless a certificate of public convenience and necessity for the
6 construction is first obtained from the Commission, and the Commission has found
7 that the capacity is necessary to ensure a sufficient supply of electricity to customers
8 in the State, a person may not exercise a right of condemnation in connection with the
9 construction of a generating station.

10 (3) Unless a certificate of public convenience and necessity for the
11 construction is first obtained from the Commission, an electric company may not begin
12 construction of an overhead transmission line that is designed to carry a voltage in
13 excess of 69,000 volts or exercise a right of condemnation with the construction.

14 (h) The Commission shall consider and take final action on an application for
15 a certificate of public convenience and necessity in an expeditious manner if the
16 application is for the construction of a generating station:

17 (1) that is designed to provide electricity for a single electric customer
18 that uses at least 1,500,000,000 kilowatt hours of electricity each year; and

19 (2) with a generating capacity that does not exceed 750 megawatts.

20 **(I) (1) THE COMMISSION MAY NOT AUTHORIZE, AND AN ELECTRIC**
21 **COMPANY MAY NOT UNDERTAKE OR EXERCISE A RIGHT OF CONDEMNATION IN**
22 **CONNECTION WITH, THE CONSTRUCTION OF AN OVERHEAD TRANSMISSION LINE**
23 **DESIGNED TO CARRY VOLTAGE IN EXCESS OF 69,000 VOLTS IF THE ELECTRIC**
24 **COMPANY IS OWNED IN WHOLE OR IN PART BY ONE OR MORE CORPORATIONS OR**
25 **OTHER BUSINESS ENTITIES THAT:**

26 **(I) ARE NOT ELECTRIC COMPANIES; OR**

27 **(II) DO NOT HAVE THE AUTHORITY TO CONTROL THE**
28 **DAY-TO-DAY BUSINESS DECISIONS OF THE ELECTRIC COMPANY.**

29 **(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT LIMIT AN**
30 **ELECTRIC COMPANY OWNED BY A HOLDING COMPANY THAT IS NOT AN**
31 **ELECTRIC COMPANY FROM UNDERTAKING OR EXERCISING A RIGHT OF**
32 **CONDEMNATION IN CONNECTION WITH THE CONSTRUCTION OF AN OVERHEAD**
33 **TRANSMISSION LINE DESIGNED TO CARRY VOLTAGE IN EXCESS OF 69,000**
34 **VOLTS.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
2 construed to apply retroactively and shall be applied to and interpreted to affect any
3 application filed or pending on or after February 1, 2010, for a certificate of public
4 convenience and necessity under Title 7, Subtitle 2 of the Public Utility Companies
5 Article.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 June 1, 2010.